IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1029 OF 2005

Dadu Bhau Sabale ...Petitioner

Versus

Divisional Traffic Superintendent
M.S.R.T.C. Pune ...Respondent

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Mr. N.A.Kulkarni, counsel for Petitioner

Mr. G.S. Hegde, counsel for Respondent.

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CORAM: B. H. MARLAPALLE, J.

DATED: 2ND MARCH, 2005

P. C.:-

1. Heard Mr. Kulkarni, the learned counsel for the petitioner who was employed as a conductor with the respondent Corporation and a disciplinary action was initiated against him which culminated in issuing the show cause notice proposing punishment of dismissal from service. On receiving the said show cause notice, he approached the Labour Court at Pune in Complaint (ULP) No. 165 of 2004 and also filed an application for stay to the proposed action of dismissal under Section 30(2) of the M.R.T.U. and P.U.L.P. Act, 1971. After hearing both the parties, the learned Judge of the 3rd Labour Court at Pune was pleased to reject the application for interim stay by

holding that prima facie, there was no case made out by the complainant in his favour. The petitioner, therefore, approached the Industrial Court in Revision Application (ULP) No. 85 of 2004 and the same also came to be dismissed by the learned Member of the Industrial Court at Pune vide his judgment and order dated 31.1.2005. Hence, this petition.

2. Both the courts below have considered that the petitioner was issued charge sheet and a domestic enquiry was conducted into the said charges, the findings submitted by the Enquiry Officer held him guilty and therefore, the material on record did not make out the prima facie case in favour of the complainant.

3. In addition, it is required to be noted that against the order of dismissal or removal from service, the petitioner is entitled to file an appeal under the service rules applicable and if such an appeal is decided against him, he has the remedy of Second Appeal. It appears that he has tried to give go-by to the provisions of service rules by filing the complaint immediately after the show cause notice was issued.

4. The concurrent view taken by both the courts below has prima facie made out a case against the

complainant-petitioner and hence, there is no case made out to cause interference in the said orders, under Article 227 of the Constitution of India.

5. The petition is rejected summarily.

6. Certified copy is expedited.